

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAR 12 2008

MOLLY DWYER, ACTING CLERK
U.S. COURT OF APPEALS

MARIA LISBET LUNA,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 05-75784

Agency No. A79-526-719

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted February 26, 2008**

Before: BEEZER, FERNANDEZ, and McKEOWN, Circuit Judges.

Maria Lisbet Luna, a native and citizen of Mexico, petitions pro se for review of the Board of Immigration Appeals' order upholding an immigration judge's decision pretermittting her application for cancellation of removal. We

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

have jurisdiction pursuant to 8 U.S.C. § 1252. We review the agency's continuous physical presence determination for substantial evidence. *See Ibarra-Flores v. Gonzales*, 439 F.3d 614, 618 (9th Cir. 2006). We review de novo claims of constitutional violations in immigration proceedings. *See Iturribarria v. INS*, 321 F.3d 889, 894 (9th Cir. 2003). We deny the petition for review.

Substantial evidence supports the agency's determination that Luna did not meet the continuous physical presence requirement where the record shows she was placed in expedited removal proceedings during the requisite time period. *See Juarez-Ramos v. Gonzales*, 485 F.3d 509, 512 (9th Cir. 2007) (holding that expedited removal interrupts an alien's continuous physical presence for cancellation purposes).

Luna's argument that the ten-year continuous physical presence requirement violates her due process rights is foreclosed by *Padilla-Padilla v. Gonzales*, 463 F.3d 972, 979-80 (9th Cir. 2006).

PETITION FOR REVIEW DENIED.